



The State Bar of California

Legal Services Trust Fund Commission Teleconference

Open Session Minutes
Friday, June 23, 2023
12:00 p.m.–4:00 p.m.

Time Meeting Commenced:

The Legal Services Trust Fund Commission (LSTFC) meeting commenced in open session at 12:01 p.m.

Time Meeting Adjourned:

3:58 p.m.

Chair:

Christian Schreiber

Committee Coordinator:

Doan Nguyen

Members Present:

Christian Schreiber, Amin Al-Sarraf, Erica Connolly, Banafsheh Akhlaghi, Jeffrey Ball, Catherine Blakemore, William Boschelli, Venetta Campbell, Eric Isken, Angie King, Hon. Clifford Klein, Joseph Lee, Tammy Mahoney, James Meeker, Patience Milrod, Maria Morales

Members Absent:

Louise Bayles-Fightmaster, Efrain Escobedo, Jason Galkin, Hon. Diana Kruze, Xavier Vargas

Advisors Present:

Judge Brad Seligman

Advisors Absent:

Justice Victor Rodriguez, Hon. Bryant Yang

Liaisons Present:

Zach Newman (LAAC), Lorin Kline (LAAC), Laura Brown (Judicial Council)

Staff Present:

Rocío Ávalos, Michael Cheng, Erica Carroll, Raul Duran, Elizabeth Hom, Christopher McConkey, Danielle MacRae, Doan Nguyen, Jennifer Zelnick

OPEN SESSION

1. Call to Order

The LSTFC was called to order by Chair Schreiber.

2. Roll Call

Roll call was taken and a quorum was established.

Before public comment, Chair Schreiber welcomed Morales and asked her to introduce herself.

Call for Public Comment

Chair Schreiber called for public comment, inquiring as to whether there were person(s) who wished to comment on any agenda item. No public comments were made.

3. Approval of Minutes

3.1 Open Session Minutes: March 24, 2023

RESOLVED, that the Legal Services Trust Fund Commission approves the minutes as posted on the agenda.

Moved by Ball, seconded by Akhlaghi.

Ayes – (15) Al-Sarraf, Akhlaghi, Ball, Blakemore, Boschelli, Campbell, Connolly, Isken, King, Lee, Mahoney, Meeker, Milrod, Morales, Schreiber

Noes – (0)

Abstain – (0)

Absent – (1) Klein

Motion carries.

4. Grants Administration

4.1 Report from the Directors of the Office of Access & Inclusion

Presenter: Doan Nguyen, Program Director, Office of Access & Inclusion (OA&I)
Elizabeth Hom, Program Director, OA&I
Rocío Ávalos, Program Director, OA&I

Nguyen provided a legislative update including 2023 Budget Act figures. The 2023 Budget Act includes \$35 million in Equal Access Fund base funding, homelessness prevention funds, and \$23 million for CARE Court grant funding.

Hom provided an update on the DEI Leadership Seal program launched in January 2023. She highlighted State Bar grantees and commissioner employers who were DEI Leadership Seal recipients and committed employers.

Ávalos provided an OA&I staffing update and reported that 2023 grant distributions will total more than \$150 million.

4.2 Report on 2022 Annual Legal Services Trust Fund Program Audit Report

Presenter: Rocío Ávalos, Program Director, OA&I
Michael Cheng, Program Supervisor, OA&I
Doan Nguyen, Program Director, OA&I

Cheng reported the 2022 Legal Services Trust Fund Program audit was a clean audit. OA&I is conducting its first Single Audit, with the final report forthcoming in July.

4.3 Review Conflicts of Interest Policy

Presenter: Raul Duran, Assistant General Counsel, Office of General Counsel

Duran provided an overview of conflicts of interest requirements, including recusal obligations and examples of personal or financial conflicts, and Form 700 reporting requirements. Duran also provided an overview of Bagley-Keene requirements, including notice, meeting materials, and public comment requirements.

4.4 Approve 2024 IOLTA Distribution and Recommendation to the Board of Trustees

Presenter: Doan Nguyen, Director, OA&I
Michael Cheng, Program Supervisor, OA&I

Nguyen and Cheng reported on Interest Lawyer Trust Account (IOLTA) revenue and provided a staff recommendation on the 2024 IOLTA grant distribution amount. The report included an overview of existing IOLTA distribution guidance, the Rules Committee working group's recommendations regarding an IOLTA reserve policy, historical data on revenue and distributions, and projections for 2023 revenue. The commission discussed the benefits and concerns of maintaining a large reserve, the legal aid community's ability to spend down a large IOLTA grant distribution, and the potential to allow for multi-year budgets of two or three years. The commission supported allowing grantees to propose two-year budgets for 2024 IOLTA grants but reserved the right to extend the 2024 IOLTA budget term to longer than two years at a later meeting.

The following resolution were then presented:

RESOLVED, that the Legal Services Trust Fund Commission recommends that the Board of Trustees approve the 2024 IOLTA distribution in the amount of \$95,226,322 with a projected reserve of \$25 million at the end of 2023.

Moved by Ball, seconded by Akhlaghi.

Ayes – (9) Al-Sarraf, Akhlaghi, Ball, Campbell, Isken, Klein, Lee, Mahoney, Meeker

Noes – (7) Connolly, Blakemore, Boschelli, King, Milrod, Morales, Schreiber

Abstain – (0)

Absent – (0)

Motion carries.

RESOLVED, that the Legal Services Trust Fund Commission allow grantees to submit a two-year 2024 IOLTA budget.

Moved by Akhlaghi, seconded by Milrod.

Ayes – (16) Al-Sarraf, Akhlaghi, Ball, Blakemore, Boschelli, Campbell, Connolly, Isken, King, Klein, Lee, Mahoney, Meeker, Milrod, Morales, Schreiber

Noes – (0)

Abstain – (0)

Absent – (0)

Motion carries.

5. Executive Committee

5.1 Approve Recommendations Regarding Commission Oversight of IOLTA and EAF Funds, Including Developing Guidelines for the Use of a Loan Repayment Assistance Program (LRAP) and Other Activities to Strengthen Organizational Health

Presenter: Erica Carroll, Lead Program Analyst, OA&I
Erica Connolly, LSTFC

Blakemore and Meeker did not participate in the discussion due to conflicts of interest.

Judge Kristin Rosi provided public comment regarding the Council on Access & Fairness's role in conceiving of a loan repayment assistance program (LRAP) and supports a commission administered LRAP in the future. Lorin Kline from LAAC indicated the organization supports the staff recommendation.

Carroll provided an overview of the programmatic and legislative history of a proposed LRAP to be administered by the California Access to Justice Commission (CalATJ). An LRAP working group was developed of members of the commission, the Council on Access and Fairness, and CalATJ. In 2022, a proposal by the working group was sent to the legislature to authorize an LRAP administered by the Student Aid Commission. The proposal was removed from the budget in 2022. In 2023, a new proposal was made in which CalATJ would administer an LRAP, which could be paid for with State Bar-administered funds. The State Bar expects the new proposal to remain in the 2023 Budget Act.

Since grantees may be able to use State Bar-administered funds to support an LRAP, State Bar staff recommend the commission develop guidelines on how grantee organizations may use State Bar funds in an LRAP. Given the short timeframe before the program's anticipated launch, staff recommend the commission delegate authority to a staff-led working group to develop the guidelines.

Connolly acknowledged the work of State Bar staff and commissioners in researching and seeking to develop an LRAP program and sought a positive partnership with CalATJ. The commission discussed the merits and concerns of an LRAP administered by CalATJ rather than by the commission and some members expressed concern for the process by which the CalATJ-administered program was created.

The following resolution was then presented:

RESOLVED, in anticipation of CalATJ securing a statutory change to allow EAF funds to be redirected to an LRAP program, the LSTFC will develop guidelines regarding the use of IOLTA, EAF, and, if applicable, any other State Bar-administered funds.

And it is **FURTHER RESOLVED**, if CalATJ is unsuccessful in securing a statutory change, the LSTFC will administer its own LRAP program in addition to issuing guidelines regarding the use of IOLTA, EAF, and, if applicable, any other State Bar-administered funds.

Moved by Connolly, seconded by Boschelli

Ayes – (7) Al-Sarraf, Connolly, Boschelli, Isken, King, Klein, Schreiber

Noes – (7) Akhlaghi, Ball, Campbell, Lee, Mahoney, Milrod, Morales

Abstain – (2) Blakemore, Meeker

Absent – (0)

Motion fails.

5.2 Report on Legal Services Trust Fund Commission Application Process

Presenter: Doan Nguyen, Program Director, OA&I

Nguyen reported that the commission needs to fill one commission appointment and sought volunteers to interview applicants.

5.3 Report on the 2021-2022 Provisionally Licensed Lawyers Grants

This item was not addressed.

5.4 Report on Public Counsel’s 2022-2025 California Housing Finance Agency Grant

This item was not addressed.

6. IOLTA and Equal Access Fund (EAF) Grants

6.1 Approve Recommendations Regarding Audit-Related Issues in 2024 IOLTA/EAF Application

Presenter: Erica Carroll, Lead Program Analyst, OA&I

Carroll reported on 12 IOLTA/EAF applicants who failed to submit an audited or reviewed financial statement by the deadline and requested audit extensions beyond the application deadline; four of the audits were still outstanding at the time of the commission meeting. The following resolution was then proposed:

RESOLVED, that the LSTFC grants the audit extension requests of the organizations listed in the memorandum that have already submitted their final audits,

And it is **FURTHER RESOLVED**, that the LSTFC grants an extension through June 30, 2023, to those organizations with audits still pending and will deny any requests for further extension.

Moved by Milrod, seconded by Boschelli.

Ayes – (15) Al-Sarraf, Akhlaghi, Ball, Boschelli, Campbell, Connolly, Isken, King, Klein, Lee, Mahoney, Meeker, Milrod, Morales, Schreiber

Noes – (0)

Abstain – (0)

Absent – (1) Blakemore

Motion carries.

6.2 Discuss and Act on Previously Unapproved 2020 and 2021 Budget Deviations Disclosed During 2022 Monitoring Visits

Presenter: Erica Carroll, Lead Program Analyst, OA&I

Betsy Butler, Executive Director of the California Women’s Law Center, made a public comment regarding the organization’s efforts to remediate the errors made and indicated her support for the staff recommendation.

Carroll reported on unapproved carryovers and budget deviations discovered during a monitoring visit with California Women’s Law Center in 2022 before proposing the following resolution:

RESOLVED, that the LSTFC approves the unreported 2020 IOLTA and EAF carryover amounts, EAF carryover amount, and 2023 IOLTA and EAF budget deviations from California Women’s Law Center.

And it is **FURTHER RESOLVED**, that LSTFC warns California Women’s Law Center that future unreported budget deviations and/or carryover amounts will not be approved, and the LSTFC will pursue any of the remedies available to it under the General Grant Provisions.

Moved by Milrod, seconded by King.

Ayes – (15) Al-Sarraf, Akhlaghi, Ball, Boschelli, Campbell, Connolly, Isken, King, Klein, Lee, Mahoney, Meeker, Milrod, Morales, Schreiber

Noes – (0)

Abstain – (0)

Absent – (1) Blakemore

Motion carries.

7. CARE Court Grants

7.1 Report on 2023 CARE Court Grantmaking

Presenter: Chris McConkey, Program Supervisor, OA&I

McConkey provided an update on 2023 Budget Act funding for CARE Court grants. The budget bill provides at least \$20.4 million for QLSPs and public defenders, up to \$1.02 for support centers, and \$1,432,000 in administrative funds. The Budget Act, if passed as drafted, would require the commission to collect data from public defender offices, QLSPs, and support centers. A CARE Court committee will approve the Request for Proposals.

8. Homelessness Prevention Grant

8.1 Report on Approved 2023-2024 Homelessness Prevention Supplemental (HP 4 Supplemental) Competitive Grants

This item was not addressed.

8.2 Approve 2021-2023 Homelessness Prevention (HP 2) Formula Grant Reallocations

Presenter: Jennifer Zelnick, Senior Program Analyst, OA&I

Zelnick reported on grantees that underspent Homelessness Prevention (HP) 2 grant funds through the first two years of the three-year grant period and the proposed reallocation of those unspent funds. One grantee was required to return funds and two organizations volunteered to return funds; 32 grantees opted-in to receive additional allocated grant funds. After the report, the following resolution was presented:

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) approves the 2021-2023 homelessness prevention (HP 2) formula grant reallocation amounts as described herein and listed in Attachment A; and it is

FURTHER RESOLVED, that the LSTFC recommends allowing grantees to use these reallocated HP 2 formula funds retroactively to January 1, 2023; and it is

FURTHER RESOLVED, that the LSTFC approves the State Bar staff's recommendation about HP 2 formula budget revisions that grantees submitted to reflect these reallocated funds.

Moved by Meeker, seconded by Connolly.

Ayes – (15) Al-Sarraf, Akhlaghi, Ball, Boschelli, Campbell, Connolly, Isken, King, Klein, Lee, Mahoney, Meeker, Milrod, Morales, Schreiber

Noes – (0)

Abstain – (0)

Absent – (1) Blakemore

Motion carries.

8.3 Report on HP 2 Grant Spending and Services

This item was not addressed.

9. Rules Committee

9.1 Approve Recommendations Regarding RFP Review Process for Discretionary Grants

This item was not addressed.

9.2 Approve Recommendations Regarding Fee Generating Work and Contingency Fee Arrangements

This item was not addressed.

10. Liaison Reports

10.1 Judicial Council Report on Program Developments

Lauren Brown reported that Judicial Council staff are continuing to work with State Bar staff on developing and meeting reporting requirements for the homelessness prevention, partnership, and consumer debt grants.

10.2 Legal Aid Association of California Report on Program Developments

Lorin Kline reported LAAC is continuing to work with State Bar staff and the commission on gathering input for rulemaking and is excited to be a recipient of the State Bar's DEI Leadership Seal.

11. Adjourn

The meeting adjourned at 3:58 p.m.

DRAFT